THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
and
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No. 7383 of 2006

O R D E R: (Per the Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed questioning the order dated 27.1.2006 passed by the A.P. Administrative Tribunal, Hyderabad in O.A.No. 441 of 2000 directing the petitioners not to recover the excess amount paid and also to refund the amount deducted from the pensionary benefits of the respondent – applicant towards recovery of the excess amount paid within a period of two months from the date of receipt of a copy of that order. It is stated in the affidavit filed in support of the writ petition that the Tribunal has accepted the stepping down of the pay of the respondent – applicant. It is also brought to our notice that the same has not been questioned by the respondent and the same has become final. Therefore, it is argued by the learned Government Pleader that as the stepping down has been upheld by the Tribunal and the same has become final, the respondent – applicant is bound to refund the excess amount and that the petitioners are entitled to recover the excess amount.

On the other hand, the contention of the learned counsel for the respondent is that the respondent has not been given any prior notice before arriving at the conclusion that an amount of Rs.89,921/- has to be deducted from his pensionary benefits.

We see some force in the contention of the learned counsel for the respondent and such action of the petitioners amounts to violation of principles of natural justice. No material is placed by the

petitioners before this Court that prior notice has been issued to the respondent before effecting recovery. Therefore, we direct the petitioners to issue a prior notice so as to enable the respondent to put-forth his case with regard to the excess amount of Rs.89,921/- within a period of four weeks from the date of receipt of a copy of this order and on receipt of such notice the respondent shall put-forth his reply within a period of three weeks thereafter and appropriate orders shall be passed within a period of two months from the date of receipt of that reply, in accordance with the Rules. We make it clear that this order is confined only to the extent of recovery of the amount of Rs.89,921/- while confirming the order passed by the Tribunal with regard to stepping down of the salary as it has become final.

The writ petition is disposed of accordingly. No costs.

T. MEENA KUMARI, J.

G. CHANDRAIAH, J.

Date: 29-06-2007.

MVB.